

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
ZONING MAP AMENDMENT REPORT (#FZC-21-17)
ZACH WARE
SEPTEMBER 29, 2021

I. GENERAL INFORMATION

A. Project Description

This is a report to the Flathead County Planning Board and Board of Commissioners regarding a request by Jackola Engineering and Architecture, on behalf of Curtis Lund for a zoning map amendment within the Willow Glen Zoning District. The proposed amendment, if approved, would change the zoning of the subject property from *R-2 One Family Limited Residential* to *B-2 General Business*.

B. Application Personnel

1. Owner

Zach Ware
704C E 13th St #145
Whitefish, MT 59937

2. Applicants

Jackola Engineering & Architecture
Attn: Erik Jarberg
2250 Highway 93 South
Kalispell, MT 59901

C. Process Overview

Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the South Campus Building at 40 11th Street West in Kalispell.

1. Land Use Advisory Committee/Council

This property is not located within the jurisdiction of a Land Use Advisory Committee.

2. Planning Board

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on October 13th at 6:00 P.M. in the 2nd Floor Conference Room of South Campus Building located at 40 11th Street West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration.

3. Commission

In accordance with Montana law, the Commissioners will hold a public hearing on the proposed zoning map amendment. Prior to the Commissioner's public hearing, documents pertaining to the zoning map amendments will also be available for public inspection in the Office of the Board of Commissioners at 800 South Main Street in Kalispell.

II. PROPERTY CHARACTERISTICS

A. Subject Property Location and Legal Description

The property consists of three parcels 300 feet south of Highway 2 at 1280 Highway 2 E and 556 Sager Lane in Evergreen, MT (see Figure 1 below) and contains 13.55 acres. The properties are legally described as:

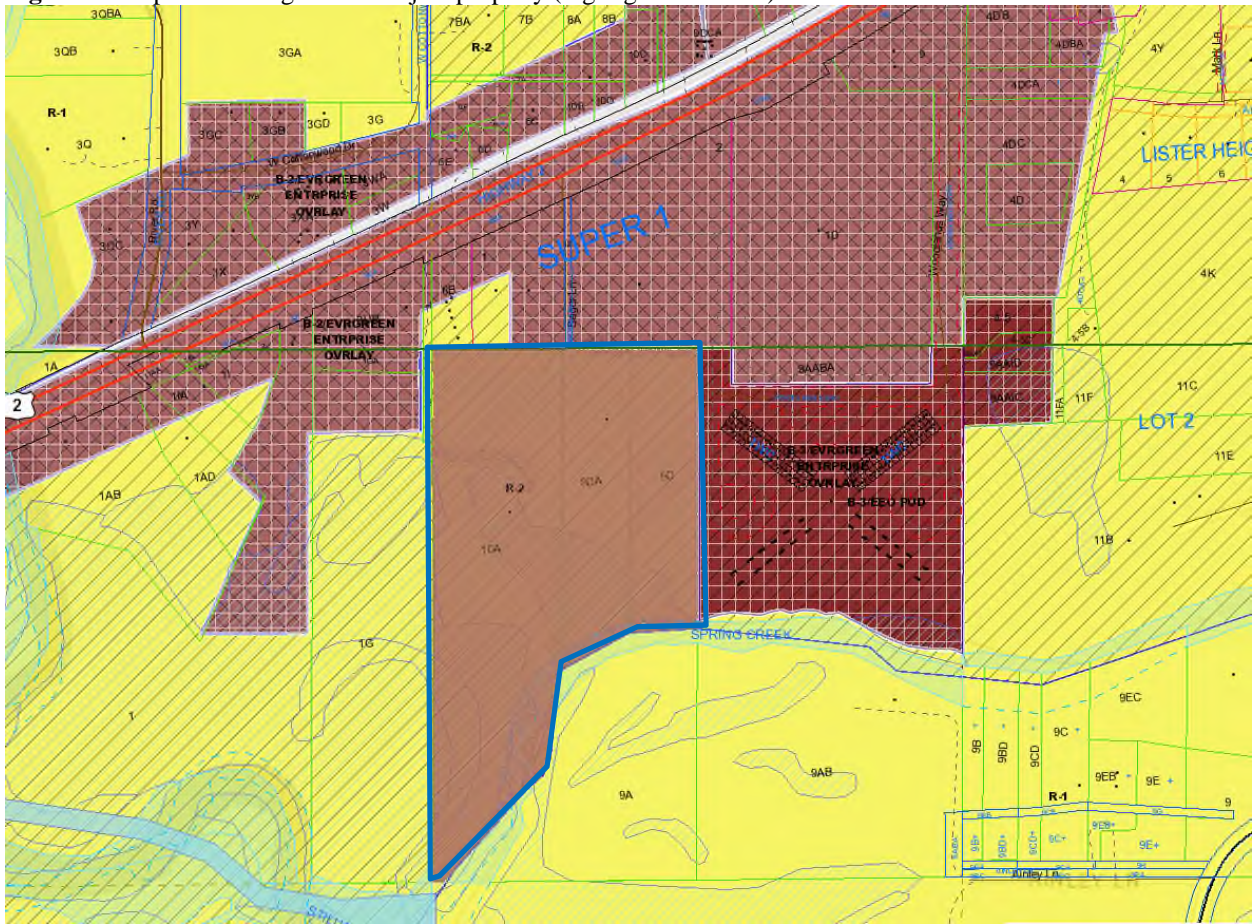
Parcel 1: Tract 1 of Certificate of Survey No. 6655, situated, lying and being in the Northeast Quarter of the Northwest Quarter of Section 9, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana.

Figure 1: Subject property (outlined in red)



The subject property contains three tracts located approximately 300 feet south of Highway 2 at the intersection of Highway 2 and Sager Lane. The property currently contains a dwelling on the property which is accessed via Sager Lane. The lot is bounded by Spring Creek to the south and contains floodplain adjacent to the creek. The application states, “Owner would like to provide affordable workforce housing via high-quality market rate apartments in a safe, secure area.”

Figure 2: Proposed zoning on the subject property (highlighted in Blue)



C. Adjacent Zoning and Character of the Overall Zoning District

The property is located within the Willow Glen Zoning District, which is approximately a 3,900-acre zoning district that covers the area east of Kalispell. The properties that surround the subject property are zoned R-1, R-2, B-2/EEO and B-3/EEO (Figure 2). The general character of the surrounding area is a mix of commercial, and residential.

The property is accessed via Sager Lane from Highway 2 and the adjacent B-2 and B-3 zoning that surrounds the highway would be extended with this proposal. However, the lot is also sandwiched by R-2 to the west and R-1 to the south, across Spring Creek.

D. Public Services and Facilities

Sewer: Evergreen
Water: Evergreen
Electricity: Flathead Electric Cooperative
Natural Gas: Northwestern Energy
Telephone: CenturyTel
Schools: Evergreen School District
Flathead High School District
Fire: Evergreen Fire District
Police: Flathead County Sheriff

III. COMMENTS

A. Agency Comments

1. Agency referrals were sent to the following agencies on August 11, 2021:
 - Flathead County Road Department
 - Montana Department of Transportation
 - Flathead County Environmental Health
 - Flathead County Solid Waste
 - Flathead County Weeds & Parks Department
 - Bonneville Power Administration
 - Montana Fish, Wildlife and Parks
 - Evergreen Water and Sewer District
 - Evergreen Fire District
 - Evergreen School District
 - Flathead High School District
2. The following is a summarized list of agency comment received as of the date of the completion of this staff report:
 - Montana Department of Transportation
 - Comment: “The change would allow for possible future apartments on the property. The proposal would be accessed via two existing approach locations onto Hwy 2 with the Sager Lane signalized intersection being the primary access. As this will be a change in use of the exiting accesses the owners will need to contact the MDT Kalispell Office to do updated approach permits.”
 - Flathead City-County Health Department
 - Comment: “This office has reviewed the information provided and does not have any comment in regard to the zone change request for the property stated above.” Letter dated August 19, 2021
 - Flathead County Solid Waste
 - Comment: “The District requests all solid waste generated at the proposed location be hauled by a private hauler. Evergreen Disposal is the licensed (PSC) Public Service Commission private hauler in this area.” Letter dated August 17, 2021
 - Evergreen Water and Sewer District
 - Comment: “We have been approached on this proposed development earlier.

We have no concerns as to the zone change for these two properties. It seems multi-unit dwellings are the demand and much needed, and hopefully more affordable for working class residences.

- “In our initial approach from Mr. Jarberg at Jackola Engineering, we have covered the times we had concerned about.
 - “1. Addressing floodplain in conjunction where District services could be affected
 - “2. Fire Flows for adequate protection of multi-unit dwellings
 - “3. Accessibility of District utilities
- “As you aware the proposed development is adjacent to another multi-unit complex, the Woodlands. The proposed development will have to meet the District Specifications and Standards, pay all fees applicable to the development to the District and those subject to the City of Kalispell Treatment, [...]” Letter dated August 16, 2021
- Flathead County Road Department
 - Comment: “From the application we understand the applicant is proposing two accesses off Highway 2. The east access appears to use Sager Lane, an unmaintained County Right-of-Way (ROW). Our records show this road to be a 20-foot-wide ROW. They state that there is 27 feet width between the two commercial buildings that Sager Lane goes between to their property. I would have concerns that with 22-foot-wide roadway there would be approximately 2.5 feet of shoulder space and then buildings. That is very little room for any type pf clear zone outside of the edge of the road for primary access to the proposed development.
 - “Secondly, while the application states a pedestrian access will be in the northeast corner of the property, I would believe there will be pedestrians who utilize Sage Lane to get to the development. With clear zone stated above there would be concern there also.” Letter dated August 12, 2021
- Bonneville Power Administration
 - Comment: “At this time, BPA does not object to this request, as the property is located approximately 2.69 miles away from the nearest BPA transmission lines or structures.”
- Montana Fish, Wildlife and Parks
 - Comment: “These properties are adjacent to Spring Creek near the confluence of the Stillwater River and provide habitat for numerous terrestrial and avian wildlife species. Cumulative development along riparian area within the Flathead Valley continues to degrade wildlife habitat and movement corridors. Both properties also contain emergent and shrub/scrub wetlands, which fall under the U.S. Army Corps of Engineering jurisdiction.
 - To maintain the natural hydrological and ecological functions of wetlands and riparian areas, as well as to minimize disturbance to wildlife, we recommend the following development setbacks for the properties outlined in this proposed zone change request:
 - “1. A minimum of 150 feet of vegetated buffer plus 50 feet of building setback from Spring Creek and associated wetlands. The setback may

be extended to locate any building outside of the channel migration zone.

“2. An official wetlands delineation will need to be completed for each property in accordance with the U.S. Army Corps of Engineering Wetlands Delineation Manual, or alternatively, all subdivision design features must be located 150 feet or more from wetlands.

- “As granting the zone change request would result in higher density housing than currently allowed, the impact from human activity to sensitive wetland areas would undoubtedly be higher.” Letter dated August 11, 2021

B. Public Comments

1. Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject property on September 24, 2021. Legal notice of the Planning Board public hearing on this application was published in the September 26, 2021, edition of the Daily Interlake.

Public notice of the Board of County Commissioners public hearing regarding the zoning map amendment will be physically posted on the subject property and within the zoning district according to statutory requirements found in Section 76-2-205 [M.C.A.]. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the general character of the proposed zoning map amendment, and the date, time, and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

2. Public Comments Received

As of the date of the completion of this staff report, no public comments have been received regarding the requested zoning map amendment. It is anticipated any member of the public wishing to provide comment on the proposed zoning map amendment may do so at the Planning Board public hearing scheduled for October 13, 2021 and/or the Commissioner’s Public Hearing. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

IV. EVALUATION OF PROPOSED AMENDMENT

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing zoning amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

A. Build-Out Analysis

Once a specific zoning designation is applied in a certain area there are certain land uses that are permitted or conditionally permitted. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those uses. The build-out analysis is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not best- or worst-case scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning

of the zoning map amendment to the future of the community to allow for the best possible review.

Section 3.10 of the Flathead County Zoning Regulations (FCZR) defines R-2 as, *'A district to provide for large tract residential development. These areas will typically be found in suburban areas, generally served by either sewer or water lines.'*

The B-2 designation is defined in Section 3.19 FCZR as, *'A business district to provide for those retail sales and service functions and operations that are typically characterized by outdoor display, storage, and/or sale of merchandise, by major repair of motor vehicles, and by outdoor commercial amusement and recreational activities. This district should also serve the general needs of the tourist and traveler.'*

The permitted uses and conditional uses for the proposed and existing zoning varies greatly. The amendment would increase the number of permitted uses from 9 to 38 and decrease the number of conditional uses from 19 to 12.

The permitted uses listed within the R-2 that are also listed in R-2 are as follows:

- Day care home.
- Home occupation.
- Park and publicly owned recreational facility.
- Public transportation shelter station.
- Public utility service installation.

The conditional uses listed within the R-2 but are permitted uses in B-2 are as follows:

- Cellular communication tower.
- Church and other place of worship.

The conditional uses listed within both the R-2 and B-2 are as follows:

- Community center building operated by a non-profit.
- Electrical distribution station.
- Golf driving range.
- Short term rental housing.
- Temporary building, structure, or use.
- Water storage facility.

The minimum lot width for B-2 is 50 feet and R-2 is 100 feet. The setbacks, maximum building height and fence heights for the B-2 are 20 feet from the front, 5 feet from the side, 20 feet from front corner, and 15 feet from the rear. The R-2 zoning allows for 20-foot setback from the front, side corner, and rear with 10-foot setbacks from the side for principal structures and 20-foot setbacks from the front and side corner and 5-foot setback from the rear and side for accessory structures. The maximum lot coverage for R-2 is 30% while the B-2 zone there is not a maximum lot coverage.

The R-2 zoning has a minimum lot size of 20,000 square feet while the B-2 zoning has a minimum lot size is 7,500 square feet. The subject property totals 13.55 acres. Due to the minimum lot size, a number of additional lots could potentially be created, especially given the fact that the property is served by the Evergreen Water and Sewer District.

B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

1. Whether the proposed map amendment is made in accordance with the Growth Policy/Neighborhood Plan.

The proposed zoning map amendment falls within the jurisdiction of the Flathead County Growth Policy, adopted on March 19, 2007 (Resolution #2015 A) and updated October 12, 2012 (Resolution #2015 R).

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as 'Residential Land Use.' The proposed 'B-2 General Business' zoning classification would appear to not comply with the current designations. However, Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, *"This map depicts areas of Flathead County that are legally designated for particular land uses. This is a map which depicts existing conditions. The areas include zoning districts which are lumped together by general use rather than each specific zone and neighborhood plans. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the existing regulations and individual plan documents. This map may be changed from time to time to reflect additional zoning districts, changes in zoning districts, map changes and neighborhood plans as they are adopted. Since this map is for informational purposes, the Planning Staff may update the same to conform to changes without the necessity of a separate resolution changing this map."* Staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic land use categories. If the zoning map amendment is approved the Designated Land Use Map can be updated by staff to reflect changes made by the County Commissioners based on goals and policies of the Growth Policy.

The following is a consideration of text which appear to be applicable to the proposed zone change:

Part 6 of Chapter 2 the Growth Policy states, *'By efficiently locating businesses so as to mitigate the negative impacts on views, traffic, and the identity of the local community, a diverse economy with a positive impact on the local community by providing goods and services where they are needed can be promoted. Inefficiently located businesses can be a high-impact burden to both the human and natural environment, and the cumulative costs to the community can outweigh the benefits.'*

- The proposed zone change is in a location where public water and sewer services exist and future extension of Highway 2 will provide sufficient access to the property.

The Part 6 goes on to say, *'Commercial land uses are unique for their ability to adapt and blend with other land uses. Mixing uses is especially appropriate when mutually negative impacts are mitigated. When land is visible, accessible and relatively affordable, there are limitless possibilities for commercial uses to match the local community character.'*

- The proposed B-2 zoning consists of a variety of higher density residential and commercial uses. This potential mixed use provides a transitional zone between the R-2 and R-1, and B-2 and B-3 zones.

Chapter 5 states, *‘accessible commercial lands, are a critical component of rebuilding and maintaining a diverse economy;’*

- The proposed commercial zoning would allow for some additional uses which could allow for a more diverse economy. As Highway 2 is extended south, per the MDT Kalispell Area Long Range Transportation Plan, it is expected that this area will provide greater access to the property.

The following is a consideration of goals and policies which appear to be applicable to the proposed zone change:

- ❖ **G.6** – *Adequate commercial land that is safely accessible and efficiently serviceable.*
 - **P.6.3** – *Provide ample commercial land designation to promote affordability.*
 - The proposed zone change would expand the existing B-2 and B-3 corridor that extends along Highway 2 and Highway 35.
 - **P.6.5** – *Conserve resources and minimize transportation demand by encouraging redevelopment and infill of existing commercial areas in the county.*
 - The subject property is substantially undeveloped but is located behind a commercial corridor with access to public water, sewer, and major traffic corridors.
- ❖ **G.7** – *Consider existing community character in commercial land development.*
 - **P.7.1** – *Determine commercial development features that support the seven elements of the Flathead County Vision detailed in Chapter 1: The Character of Flathead County. The Seven Elements of the Public’s Vision include:*
 - *Protect the Views*
The vision states, *‘One characteristic that residents of Flathead County cherish is the view. Views of mountains, lakes, forests, wildlife, and open spaces are cited as characteristics residents of Flathead County would not change. “Scenic resources” are valued throughout the county regardless of age, gender or location.’* While the property is substantially undeveloped, a change in zoning from R-2 to B-2 is not likely to impact the scenic views as the area around the subject property contains a variety of commercial uses.
 - *Promote a Diverse Economy*
The vision states, *‘Residents of Flathead County desire a diverse economy That respects our heritage as a primary producer and promotes development of other sectors of the economy not traditionally found in rural Montana.’* The proposed zone change, if approved, would allow for additional business uses and mixed-use opportunities.
 - *Manage Transportation*

Vision 3 discusses managing traffic flow through land development patterns; this report contains discussion regarding the proposals impacts on traffic below.

- *Maintain the Identity of Rural Communities*
The vision states, *'Preventing communities from growing together and losing their unique identities was another concern of many scoping meeting participants. The concern of seeing Flathead County turn into one continuous sprawling development was expressed in a variety of ways. Many residents of Flathead County do not want to see strip malls, used car lots, mini storage, warehouse stores, lumber yards, and other visually dominating land uses disrupt the perception of driving between unique rural communities.'* The property is adjacent to established commercial and residential areas in Evergreen and a zone change from R-2 to B-2 would not lead to sprawl that would take-away from the rural identity of the community.
 - *Protect Access to and Interaction with Parks and Recreation*
This report contains a discussion on parks and recreation below.
 - *Properly Manage and Protect the Natural and Human Environment*
The vision states, *'Air and water quality were mentioned frequently as well as co-habitation of people and wildlife being qualities that make Flathead County unique and desirable. Many residents expressed a desire to protect the lakes, rivers, ponds, groundwater and air for future generations.'* The property is bounded by the south by Spring and the property contains 100-year floodplain and development could impact wetlands, floodplain, and wildlife.
 - *Preserve the Rights of Private Property Owners.*
The proposal is being undertaken by the new property owner.
- ❖ **G.21** – *A healthy and vibrant Flathead County economy that provides diversity and living-wage job opportunities and is comprised of sustainable economic activities and private sector investment.*
- **P.21.1** – *Provide adequate land area designated for commercial and industrial use to promote affordability, creating entrepreneurialism and/or businesses relocation to Flathead County.*
 - The property can accommodate any of the 38 permitted and 12 conditional uses in the B-2 zone. The majority of these uses are commercial and would simply expand the Evergreen commercial corridor that extends along Highway 2 and Highway 35.
- ❖ **G.23** – *Maintain safe and efficient traffic flow and mobility on county roadways.*
- **P.23.2** – *Limit private driveways from directly accessing arterials and collector roads to safe separation distances.*
 - **P.23.6** – *Support land use patterns along transit corridors that reduce vehicle dependency and protect public safety.*
 - This report contains discussion on the adequacy of transportation and traffic below.

- ❖ **G.32** – *Maintain consistently high level of fire, ambulance and emergency 911 response services in Flathead County as growth occurs.*
- ❖ **G.33** – *Maintain a consistently high level of law enforcement services in Flathead County as growth occurs.*
 - This report contains discussion on the adequacy of emergency service below.

Finding #1: The proposed zoning map amendment generally complies with the text, goals and policies of the Growth Policy because the proposed zoning would allow for additional permitted and conditional uses which blend with the residential and commercial nature of the area, could provide affordable housing options and expand an established commercial district, the proposal could lead to appropriate infill development and is served by public water and sewer.

2. Whether the proposed map amendment is designed to:

a. Secure safety from fire and other dangers;

The property is located within the Evergreen Fire District and is approximately one mile south of the Evergreen Fire Station located on Highway 2. The property is not located in the Wildland Urban Interface (WUI), a fire district priority area or a county wide priority area. The property will be accessed via Sager Lane and a secondary access from Highway 2. Additional access in the event of an emergency could come from Woodlands Way a private drive adjacent to the property that connects to Sager Lane.

According to the applicant, “The property is located approximately 1 mile south of the Evergreen Fire Station located on Highway 2, within the Evergreen Fire District. The property will be accessed via an improved road at signalized Sager Lane and a new road at Hwy 2. Both roads have direct access to Hwy 2 with ample access for emergency service vehicles.”

The subject property is located on relatively flat land and according to FEMA FIRM panel 30029C1810J is situated in a Zone AE, which is classified as an area inside the 100-year floodplain and a shaded Zone X, which is classified as 500-year floodplain. Additionally, there are wetlands and a creek located on the rear of the subject property. A floodplain development permit would be required for any work within the Zone AE.

Finding #2: The proposed map amendment would likely not impact safety from fire and other danger because even though the property is not located in the WUI, it is approximately one mile from the nearest fire station, and a portion of the property is located within the 100-year floodplain which would require floodplain development permit if development occurred in the floodplain.

b. Promote public health, public safety, and general welfare;

As previously stated, the subject property is located within the Evergreen Fire District. The Evergreen Fire Department would respond in the event of a fire or medical emergency and the Flathead County Sheriff’s Department provides police services to the subject property. The property is within 300 feet of Highway 2 and has access via Sager Lane, a secondary access with right-in/right-out and in the

event of an emergency possibly Woodlands Way. Woodlands Way could provide adequate ingress and egress for emergency vehicles which would help to ensure adequate public health and safety. Permitted and conditional uses in B-2 zone would serve to protect and promote public health, safety and general welfare.

Finding #3: The proposed zoning map amendment appears to have minimal negative impacts on public health, safety and general welfare because permitted and conditional uses would be similar to uses already existing in the area and the property is served by the Flathead County Sheriff and the Evergreen Fire Department.

c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

The subject property is accessed via Sager Lane and a secondary right-in/right-out at 1280 Highway 2 E. The applicant is proposing to widen Sager Lane to 22-feet. The Super 1 subdivision plat illustrates a 40-foot easement around Sager Lane at the intersection of Highway 2 and a 20-foot easement for the southern 150 feet of Lot 2 of the Super 1 plat. A 20-foot sewer line easement and fire access is also shown on this plat (see Figure 4). Certificate of Survey #6655 illustrates the extension of the easement of Sager Lane as it turns east with a width of 16.5-20 feet wide.

Comment from the Flathead County Road and Bridge Department notes, “From the application we understand the applicant is proposing two accesses off Highway 2. The east access appears to use Sager Lane, an unmaintained County Right-of-Way (ROW). Our records show this road to be a 20-foot-wide ROW. They state that there is 27 feet width between the two commercial buildings that Sager Lane goes between to their property. I would have concerns that with 22-foot-wide roadway there would be approximately 2.5 feet of shoulder space and then buildings. That is very little room for any type of clear zone outside of the edge of the road for primary access to the proposed development.”

The proposed secondary appears to be a through a commercial parking lot and there is not a current easement over the properties. The applicant states an easement will be obtained for a 22-foot roadway width, but it will not be 60 feet.

Comment from MDT indicates, “The change would allow for possible future apartments on the property. The proposal would be accessed via two existing approach locations onto Hwy 2 with the Sager Lane signalized intersection being the primary access. As this will be a change in use of the existing accesses the owners will need to contact the MDT Kalispell Office to do updated approach permits.”

The property is located within the Evergreen Water and Sewer District and the application indicates, “We have been approached on this proposed development earlier. We have no concerns as to the zone change for these two properties. It seems multi-unit dwellings are the demand and much needed, and hopefully more affordable for working class residences.

“In our initial approach from Mr. Jarberg at Jackola Engineering, we have covered the times we had concerned about.

“1. Addressing floodplain in conjunction where District services could be affected

“2. Fire Flows for adequate protection of multi-unit dwellings

“3. Accessibility of District utilities

“As you aware the proposed development is adjacent to another multi-unit complex, the Woodlands. The proposed development will have to meet the District Specifications and Standards, pay all fees applicable to the development to the District and those subject to the City of Kalispell Treatment, [...]”

The proposed B-2 zone could have some impact on schools and parks because the zone allows for duplexes and multi-family dwellings. The subject property is located within the Evergreen and Flathead School Districts. Evergreen School have seen a decrease of 12% in student enrollment over the last ten years and decrease of 5% between the 2019 and 2020 school years. The Flathead High School District has increased 4% in student enrollment over the last ten years and an increase of 8% between 2019 and 2020. The school districts did not provide comment regarding this proposal. It is anticipated that the school would have capacity should any residential growth occur as a result of the proposed zoning map amendment.

The proposed amendment from R-2 to B-2 would increase the 20,000 square feet lot size to 7,500 square feet. It is anticipated subsequent future development would require review and park area required would be determined at that time. There are numerous parks, natural areas, and recreational opportunities accessible in the vicinity of the proposal.

Finding #4: There does not appear to be adequate transportation to facilitate the proposed map amendment because there is no easement for the secondary access, Sager Lane has an easement width of approximately 20 feet at the subject property, there is only 27 feet between the buildings for Sager Lane, and the Road and Bridge Department had concerns with the proposed access.

Finding #5: The proposed amendment appears to facilitate the adequate provision of water, sewerage, schools and parks because the property would undergo review through the Flathead County Environmental Health if the property were subdivided, sewer and water would be obtained through the Evergreen Water and Sewer District, and subdivision review could require parkland dedication and no comments were received from either school district.

3. In evaluating the proposed map amendment, consideration shall be given to:

a. The reasonable provision of adequate light and air;

The application states, “The parcel’s orientation, size, tree cover, and ample frontage to Spring Creek provide significant buffers to maximize available light and clean air to all residents and neighbors. The proposed development utilizes the ample open space to increase the availability of light and air.”

The bulk and dimensional requirements within the proposed zoning requires a 20-foot setback from front, and side-corner, 15 feet for the rear, and 5 feet for the side boundary line for principal structures. A 20-foot setback is required from streams,

rivers and unprotected lakes which do not serve as property boundaries and an additional 10-foot setback is required from county roads classified as collector or major/minor arterials. The permitted lot coverage is not applicable, and the maximum height is 35 feet. These bulk and dimensional requirements within the B-2 designation have been established to ensure a reasonable provision of light and air.

Finding #6: The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional requirements of the B-2 designation.

b. The effect on motorized and non-motorized transportation systems;

The subject property is accessed via Sager Lane and a secondary right-in/right-out at 1280 Highway 2 E. The applicant is proposing to widen Sager Lane to 22-feet. The Super 1 subdivision plat illustrates a 40-foot easement around Sager Lane at the intersection of Highway 2 and a 20-foot easement for the southern 150 feet of Lot 2 of the Super 1 plat. A 20-foot sewer line easement and fire access is also shown on this plat (see Figure 4). Certificate of Survey #6655 illustrates the extension of the easement of Sager Lane as it turns east with a width of 16.5-20 feet wide.

Comment from the Flathead County Road and Bridge Department notes, “From the application we understand the applicant is proposing two accesses off Highway 2. The east access appears to use Sager Lane, an unmaintained County Right-of-Way (ROW). Our records show this road to be a 20-foot-wide ROW. They state that there is 27 feet width between the two commercial buildings that Sager Lane goes between to their property. I would have concerns that with 22-foot-wide roadway there would be approximately 2.5 feet of shoulder space and then buildings. That is very little room for any type of clear zone outside of the edge of the road for primary access to the proposed development.”

The proposed secondary appears to be a through a commercial parking lot and there is not a current easement over the properties. The applicant states an easement will be obtained for a 22-foot roadway width, but it will not be 60 feet.

Comment from MDT indicates, “The change would allow for possible future apartments on the property. The proposal would be accessed via two existing approach locations onto Hwy 2 with the Sager Lane signalized intersection being the primary access. As this will be a change in use of the existing accesses the owners will need to contact the MDT Kalispell Office to do updated approach permits.”

Sager Lane is an unmaintained county road with no recent traffic counts. Staff estimates traffic counts for Sager Lane at less than 50 Average Daily Trips given there is only dwelling that uses the road for access and trucks using it to come and go from the loading docks at the business located in front of the subject property.

The applicants are proposing the zone change to accommodate multi-family to accommodate 72 dwellings. The ITE Trip Generation Manual has an average trip rate of 6.47 per dwelling unit for apartments which would generate 466 ADT on the subject property, which would increase the ADT on Sager Lane. Because the

B-2 zone allows for a variety of permitted and conditional uses and the zone does not have maximum lot coverage, the impacts of the zone change are challenging to estimate. Given an estimated 30% lot coverage to accommodate the environmental constraints, parking and access, the 13.55-acre lot could accommodate 177,071 square feet of building which could result in approximately 1,953 ADT for general office or 5,568 ADT for a clinic. These numbers reflect a single and maximum use of the property which may not be as likely as a mix of multiple uses. If the zone change is approved and apartments are built Sager Lane would see an average daily traffic increase by 932%.

Additional comment from the Road and Bridge Department states, “Secondly, while the application states a pedestrian access will be in the northeast corner of the property, I would believe there will be pedestrians who utilize Sage Lane to get to the development. With clear zone stated above there would be concern there also.” The proposal does not allow for adequate non-motorized transportation as Sager Lane is 27 feet wide with 22-foot travel surface and with the other alternative walking through a loading dock area of a store does not allow for safe pedestrian and bicycle traffic.

Finding #7: Impacts on the motorized transportation systems are anticipated with this proposal because there is no easement for the proposed secondary access, Sager Lane has an easement width of approximately 20 feet at the subject property, there is only 27 feet between the buildings on Sager Lane, and the Road and Bridge Department had concerns with the proposed access.

Finding #8: Effects on the non-motorized transportation systems are anticipated because there is no place for pedestrian and bicycle access Sager Lane, and the Road Department had concerns with the proposed access.

c. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);

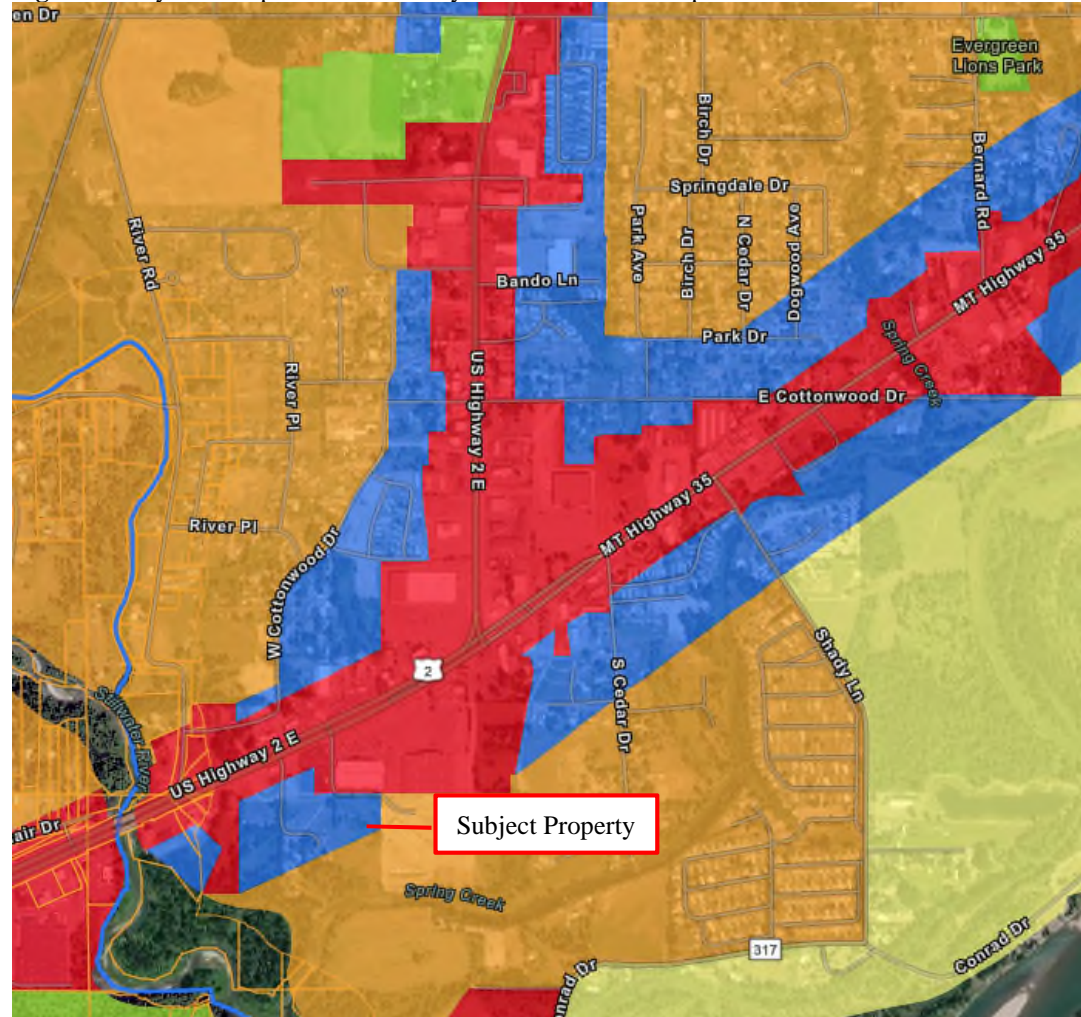
Kalispell is the nearest municipality to the subject property and city limits are located less than a mile to the west. The property is located within the boundary of the Kalispell Growth Policy but is not located within the annexation policy boundary (See Figure 6). An agency referral was sent to the Kalispell Planning Department but the City did not provide comment.

The Kalispell Growth Policy Planning Area Map designated the property as ‘*Urban Residential*’ and ‘*Urban Mixed Use*.’ The Kalispell Growth Policy notes, ‘*Urban Residential*’ should include: “a. Zero lot line and patio homes, with open spaces and common areas, b. Triplexes and Four-plexes, c. Multi-family, and d. Mixed uses.”

The Urban Mixed Use is defined as, “*Encourage the development of compact, centrally located service and employment areas that provide easy connections between existing commercial and residential neighborhoods. [...]. Expand the depth of urban highway commercial areas as mixed-use corridors, in order to provide an alternative to linear commercial development, concentrate more intensive uses along traffic arterials, improve business district circulation and transportation efficiency areas, by secondary street access, provide flexibility for*

larger development sites, and expand small business opportunities. d. Within these corridor areas, provide for higher-intensity, mixed-use areas roughly two blocks on both sides of urban highways. As distance from the highway increases, create a gradual transition into the residential neighborhoods by encouraging multi-family, offices and other compatible uses as a transition tool with sensitivity to compatible design. e. Avoid encroachment into established, intact residential areas. f. Allow a compatible mix of higher-intensity uses including office as well as some commercial and light industrial; medium and high-density residential and public facilities.”

Figure 4: City of Kalispell Growth Policy Future Land Use Map



The proposed B-2 zoning would allow for duplex and multi-family residential and commercial uses that fit into the City’s vision of development. The text of the Growth Policy indicates, “Like the text, the color map designation is part of the Growth Policy, and it is intended to indicate generalized rather than exact locations for anticipated future land uses.” Based on the general location of the ‘Urban Mixed Use’ and ‘Urban Residential’ designations, it would appear that the area is generally supportive of mixed uses as a buffer between commercial and residential designations.

Finding #9: The property is located within the extent of the City of Kalispell Growth Policy Future Land Use Map and the proposal appears to generally be compatible with urban growth in the vicinity, as the property is designated as ‘Urban Residential’ and ‘Urban Mixed Use’ and many of the uses in B-2 can accommodate the mixed-use nature adjacent to adjoining residential and commercial designations.

d. The character of the district(s) and its peculiar suitability for particular uses;

The character of the district and its peculiar suitability for particular uses can best be addressed using the “three-part test” established for spot zoning by legal precedent in the case of *Little v. Board of County Commissioners*. Spot zoning is described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Below is a review of the three-part test in relation to this application and the character of the district and its peculiar suitability for particular uses.

i. *The zoning allows a use that differs significantly from the prevailing use in the area.*

The character of the zoning district in the vicinity of the subject property is commercial along Highway 2 and Highway 35 and residential south of the commercial corridor along Spring Creek. The subject property is located near the intersection of Highway 2 and Highway 35 the proposed zone change would change the zoning from R-2 to B-2 extending the commercial area south from the boundary of Spring Creek. While the B-2 zoning is significantly different than the R-1 and R-2 residential zoning districts that surround the property to the south and west, the commercial nature of the area to the north is substantially similar in nature to the proposed zone.

ii. *The zoning applies to a small area or benefits a small number of separate landowners.*

The zoning map amendment would apply to three tracts of land covering 13.55 acres. While the Willow Glen Zoning district is comprised of 3,931 acres and the proposal consists of less than 1% of the zoning district, the subject property would be added to existing commercial zoning along Highway 2 and Highway 35 within the Willow Glen Zoning District.

iii. *The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and, thus, is in the nature of special legislation.*

Since the zoning map amendment would apply to three tracts for the benefit of one owner, this zoning map amendment may be at the expense of the surrounding landowners. As previously stated, the proposed commercial zoning would extend the boundary of the commercial corridor along Highway 2 and Highway 35 which could affect surrounding residential landowners. However, and the proposal would expand the B-2 and B-3 commercial highway corridor.

Finding #10: The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the

zoning does not allow for uses that differ significantly from the prevailing use in the area and currently exist in the adjacent B-2/EEO and B-3/EEO corridor along Highway 2 and Highway 35.

e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

The subject property is located within the Willow Glen Zoning District and surrounded by residential and commercial zones (see Figure 2). The application states, “The proposed amendment would conserve the value of buildings in the area and the proposed use would provide the most appropriate use of land by supplying safe and affordable housing for families working nearby.”

Previous sections of this report have discussed the differences between permitted and conditional uses in the existing zoning and proposed zoning. Conserving the value of buildings throughout the jurisdictional area is a function of allowing land uses that are appropriate and reasonable. The B-2 zoning district is intended to provide community shopping areas and includes duplexes, multi-family dwellings and other residential uses that are compatible with the type permitted and conditional commercial uses.

Finding #11: This proposed zoning map amendment will have minimal impact on the value of buildings because the property is located adjacent to and accessed from the Highway 2/Highway 35 commercial corridor and the proposed B-2 would allow for a zoning that permits higher density residential uses and complementary commercial uses.

4. Whether the proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

The nearest City of Kalispell zoning is located approximately 1 mile to the west with B-2 that extends along Highway 2 into Evergreen and I-2/PUD near the new rail park. The City of Kalispell defines B-2 as, ‘*A district which provides for a variety of sales and service establishments to serve both the residents of the area and the traveling public. This district depends on the proximity to major streets and arterials and should be located in business corridors or in islands. This zoning district would typically be found in areas designated as commercial and urban mixed use on the Kalispell Growth Policy Future Land Use Map.*’

The City’s I-2 designation is defined as “*An industrial district intended to provide areas for heavy industrial uses to accommodate heavy manufacturing, processing, fabrication and assembling of products or materials. It is also intended that the encroachment of non-industrial uses within the district be prevented. This zoning district would typically be restricted to areas designated as industrial on the Kalispell Growth Policy Future Land Use Map.*”

The proposed county B-2 zoning is defined as, ‘*A business district to provide for those retail sales and service functions and operations that are typically characterized by outdoor display, storage, and/or sale of merchandise, by major repair of motor vehicles, and by outdoor commercial amusement and recreational activities. This district should also serve the general needs of the tourist and traveler.*’

The uses in the City B-2 are substantially similar to the County B-2 uses. The City's B-2 allows for a variety of similar commercial uses and allows for both single family dwellings (permitted) and multi-family dwellings (conditional) and the zone is "typically found in areas designated as commercial and urban mixed use on the Kalispell Growth Policy Future Land Use Map."

Finding #12: The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Kalispell because the proposed B-2 zone would be similar to the City B-2 zoning also found along Highway 2.

V. SUMMARY OF FINDINGS

1. The proposed zoning map amendment generally complies with the text, goals and policies of the Growth Policy because the proposed zoning would allow for additional permitted and conditional uses which blend with the residential and commercial nature of the area, could provide affordable housing options and expand an established commercial district, the proposal could lead to appropriate infill development and is served by public water and sewer.
2. The proposed map amendment would likely not impact safety from fire and other danger because even though the property is not located in the WUI, it is approximately one mile from the nearest fire station, and a portion of the property is located within the 100-year floodplain which would require floodplain development permit if development occurred in the floodplain.
3. The proposed zoning map amendment appears to have minimal negative impacts on public health, safety and general welfare because permitted and conditional uses would be similar to uses already existing in the area and the property is served by the Flathead County Sheriff and the Evergreen Fire Department.
4. Adequate transportation to facilitate the proposed map amendment does not exist because there is no easement for the secondary access, Sager Lane has an easement width of approximately 20 feet at the subject property, there is only 27 feet between the buildings for Sager Lane, and the Road and Bridge Department had concerns with the proposed access.
5. The proposed amendment appears to facilitate the adequate provision of water, sewerage, schools and parks because the property would undergo review through the Flathead County Environmental Health if the property were subdivided, sewer and water would be obtained through the Evergreen Water and Sewer District, and subdivision review could require parkland dedication and no comments were received from either school district.
6. The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional requirements of the B-2 designation.
7. Impacts on the motorized transportation systems are anticipated with this proposal because there is no easement for the proposed secondary access, Sager Lane has an easement width of approximately 20 feet at the subject property, there is only 27 feet between the buildings on Sager Lane, and the Road and Bridge Department had concerns with the proposed access.

8. Effects on the non-motorized transportation systems are anticipated because there is no place for pedestrian and bicycle access Sager Lane, and the Road Department had concerns with the proposed access.
9. The property is located within the extent of the City of Kalispell Growth Policy Future Land Use Map and the proposal appears to generally be compatible with urban growth in the vicinity, as the property is designated as '*Urban Residential*' and '*Urban Mixed Use*' and many of the uses in B-2 can accommodate the mixed-use nature adjacent to adjoining residential and commercial designations.
10. The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the zoning does not allow for uses that differ significantly from the prevailing use in the area and currently exist in the adjacent B-2/EEO and B-3/EEO corridor along Highway 2 and Highway 35.
11. This proposed zoning map amendment will have minimal impact on the value of buildings because the property is located adjacent to and accessed from the Highway 2/Highway 35 commercial corridor and the proposed B-2 would allow for a zoning that permits higher density residential uses and complementary commercial uses.
12. The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Kalispell because the proposed B-2 zone would be similar to the City B-2 zoning also found along Highway 2.

VI. CONCLUSION

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning map amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to comply with most of the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

Planner: ekm